FILED
MAR 31 1944
CHARLES ELMORE CROPLEY
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1943

No. 787

CALIFORNIA RETAIL GROCERS & MERCHANTS ASSOCIATION, LTD., a corporation, CENTRAL CALIFORNIA RETAIL GROCERS & MEAT DEALERS ASSOCIATION, a corporation, CENTRAL COAST COUNTIES ASSOCIATION OF RETAIL GROCERS, INC., a corporation, FOOD TRADES INSTITUTE, INC., a corporation, FOOD INDUSTRY BUREAU, INC., a corporation, KERN COUNTY RETAIL GROCERS & MERCHANTS ASSOCIATION, a corporation, RETAIL GROCERS ASSOCIATION OF ALAMEDA COUNTY, a corporation, RETAIL GROCERS ASSOCIATION OF SAN FRANCISCO, LTD., a corporation, TULARE-KINGS RETAIL GROCERS ASSOCIATION, CONTRA COSTA COUNTY RETAIL GROCERS ASSOCIATION, YOSEMITE EMPIRE RETAIL GROCERS ASSOCIATION, SONOMA COUNTY RETAIL GROCERS ASSOCIATION, FRESNO COUNTY RETAIL GROCERS ASSOCIATION, WILLIAM D. HADELER, F. A. TISSIER, F. H. McFARLAND, A. H. ROLFES, GRACE GASPAR, J. N. SHOULTS, W. C. MILLER, FRED VERLEGER and I. H. WALLACE,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Supplemental Brief in Support of Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit

MAURICE E. HARRISON
111 Sutter Street,
San Francisco, Calif.
Attorney for Petitioners.

MOSES LASKY,
111 Sutter Street, San Francisco, Calif.

E. R. HOERCHNER,
917 Phelan Building, San Francisco, Calif.
Of Counsel.

PARKER PRINTING COMPANY, 545 SANSOME STREET, SAN FRANCISCO

In the Supreme Court of the United States

OCTOBER TERM, 1943

No. 787

CALIFORNIA RETAIL GROCERS & MERCHANTS ASSOCIATION, LTD., a corporation, CENTRAL CALIFORNIA RETAIL GROCERS & MEAT DEALERS ASSOCIATION, a corporation, CENTRAL COAST COUNTIES ASSOCIATION OF RETAIL GROCERS, INC., a corporation, FOOD TRADES INSTITUTE, INC., a corporation, FOOD INDUSTRY BUREAU, INC., a corporation, KERN COUNTY RETAIL GROCERS & MERCHANTS ASSOCIATION, a corporation, RETAIL GROCERS ASSOCIATION OF ALAMEDA COUNTY, a corporation, RETAIL GROCERS ASSOCIATION OF SAN FRANCISCO, LTD., a corporation, TULARE-KINGS RETAIL GROCERS ASSOCIATION, CONTRA COSTA COUNTY RETAIL GROCERS ASSOCIATION, YOSEMITE EMPIRE RETAIL GROCERS ASSOCIATION, SONOMA COUNTY RETAIL GROCERS ASSOCIATION, FRESNO COUNTY RETAIL GROCERS ASSOCIATION, WILLIAM D. HADELER, F. A. TISSIER, F. H. McFARLAND, A. H. ROLFES, GRACE GASPAR, J. N. SHOULTS, W. C. MILLER, FRED VERLEGER and I. H. WALLACE,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Supplemental Brief in Support of Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit

We submit this supplemental brief in order to cite *Frankfort Distilleries, Inc. v. United States of America,* decided by the Circuit Court of Appeals for the Tenth Circuit on February 28, 1944.

We cite the *Frankfort* decision in connection with the subject of interstate commerce, which is involved in the second question stated at page 2 of our petition and which is discussed at pages 16 to 19 and 25 of that petition.

The decision of the court below in the instant case is in direct conflict with that of the Tenth Circuit in the *Frankfort* case.

The latter had to do with an indictment charging violation of the Sherman Act by reason of activities under the Colorado Fair Trade Act with respect to retail prices in Colorado of commodities (liquor) largely brought into the state from without. The indictment in the *Frankfort* case is strikingly similar to the indictment in the instant case.

The exact position contended for by petitioners here was sustained in the *Frankfort* decision.

As the opinion in the *Frankfort* case is not yet reported, we quote it in full in an appendix.

Respectfully submitted,

San Francisco, California
March 29, 1944

MAURICE E. HARRISON,
111 Sutter Street,
San Francisco, California,
Attorney for Petitioners.

MOSES LASKY,
111 Sutter Street,
San Francisco, California,
E. R. HOERCHNER,
917 Phelan Building,
San Francisco, California,
Of Counsel.

(APPENDIX FOLLOWS)